

II. LEGAL STANDARD

Congress passed 28 U.S.C. § 636(b) “to relieve some of the burden on the federal courts by permitting the assignment of certain district court duties to magistrates.” *See e.g. Baker v. Peterson*, 67 F. App’x 308, 311, 2003 WL 21321184 (6th Cir. 2003) and Fed. R. Civ. P. 72(a). A United States District Judge may refer certain dispositive pretrial motions to a United States Magistrate Judge for submission of proposed findings of fact and conclusions of law, pursuant to 28 U.S.C. § 636(b)(1)(B) and (C); *Brown v. Wesley Quaker Maid, Inc.*, 771 F.2d 952, 957 (6th Cir. 1985). The District Court Judge may accept, reject, or modify in whole or in part, the Magistrate Judge’s proposed findings and recommendations. A district judge should adopt the findings and rulings of the magistrate judge to which no specific objection is filed. *Brown*, 47 F.Supp.3d at 674. While most actions by a Magistrate Judge are reviewed for clear error, dispositive recommendations to the District Court Judge are reviewed *de novo*. *Thomas v. Arn*, 474 U.S. 140, 141-42 (1985).

III. FACTUAL HISTORY

The Chief Magistrate Judge’s report and recommendation offers proposed findings of fact to which neither party has objected. (ECF No. 7, pp. 2-4). After several conferences and written reprimands for working too slowly, eating and leaving containers in his work area and for failure to follow instructions and the rules and regulations of the agency, Owens was terminated from his employment with Shelby County Schools on or about March 5, 2017. The disciplinary forms show Plaintiff’s refusal to acknowledge these measures with his signature. (ECF Nos. 1, ¶ IV. & 1-1, 1-3.) Along with the Complaint, Plaintiff includes a document concerning the ADA and seems to suggest that because of his illnesses, he was terminated. Because the parties have

not objected to the Chief Magistrate Judge's proposed findings of fact, the Court fully adopts the proposed findings of fact in this case.

IV. ANALYSIS

The Chief Magistrate Judge conducted an extensive analysis of this case in accordance with 28 U.S.C. §1915(e). Construing the complaint liberally in favor of Plaintiff, the Chief Magistrate Judge examined whether the matter should be dismissed pursuant to Fed. R. Civ. P. 12(b)(6) because: (1) the official capacity claims against SCSBE employees, Shelby County Schools Manager Cecelia Barnes and Interim Manager Debbie Walker, construed as claims against SCSBE, are not viable claims under 42 U.S.C. § 1983; (2) the complaint fails to establish any violations of Owens's procedural due process rights; (3) the § 1983 claims are barred by the statute of limitations; (4) the § 1983 and ADA claims are barred by the doctrine of *res judicata*;¹ (5) the complaint fails to allege a *prima facie* elements for discrimination under the ADA; (6) individual liability is prohibited under Title VII and the ADA for co-workers and supervisory individuals; and finally, (7) the ADA claims should be dismissed for Owens's failure to exhaust the administrative remedies. (ECF No. 7, 5-21.) To date, Plaintiff has failed to file any objections to the report and recommendations.

Upon *de novo* review of the report and recommendations, the Court finds that Plaintiff has failed to state a claim against the Defendants Barnes and Walker, in their individual capacities, and against SCSBE for the official capacity claims raised against these employees under 42 U.S.C. § 1983. See *Searcy v. City of Dayton*, 38 F.3d 282, 286 (6th Cir. 1994) and *Tennial v. United Parcel Serv., Inc.*, No. 2:13-cv-2277-JTF-tmp, 2015 WL 13022010, at *3 (W.D. Tenn. Nov. 12, 2015) (citing *Hiler v. Brown*, 177 F.3d 542, 546 (6th Cir. 1999)). The

¹ See *Emerson Owens v. Cecilia Barnes*, Case No. 2:17-cv-02596-JTF-dkv (W.D. Tenn. 2017)

Chief Magistrate Judge correctly concluded that Owens's conclusory allegations did not establish a viable procedural due process claim or a denial of a protected property interest in continued employment with the SCSBE. *See Curby v. Archon*, 216 F.3d 549, 553 (6th Cir. 2000). The Magistrate Judge also correctly concluded that Owens's had not sufficiently alleged the elements of an ADA discrimination claim nor had he administratively exhausted the claim as required. Furthermore, the §1983 claim is barred by *res judicata* and the applicable statute of limitations. As noted above, Plaintiff has failed to submit any objections to the Magistrate Judge's report and recommendation pursuant to Fed. R. Civ. P. 72(b)(2) and the time has expired.

CONCLUSION

Upon a *de novo* review of the *pro se* complaint, the associated documents, and the Chief Magistrate Judge's report and recommendation, the Court adopts the Chief Magistrate Judge's report and recommendation in its entirety and orders the case dismissed *sua sponte*.

IT IS SO ORDERED on this 31st day of August, 2018.

s/John T. Fowlkes, Jr.
JOHN T. FOWLKES, JR.
UNITED STATES DISTRICT JUDGE